

## Message Text

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53

ORIGIN L-02

INFO OCT-01 EUR-12 ISO-00 CIAE-00 INR-07 NSAE-00 JUSE-00

SCSE-00 SCA-01 /023 R

DRAFTED BY L/C:DRHENDERSON, JR:MB, LK

APPROVED BY L/C:FAKWIATEK

EUR/SOV:FHMISCH

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R 111338Z FEB 75

FM SECSTATE WASHDC

TO AMEMBASSY MOSCOW

UNCLAS STATE 030635

E.O. 11652: N/A

TAGS: ASAFA, UR

SUBJECT: GOLOSOVSKAYA DEATH CLAIM

REFS: A) EMBASSY'S A-481, DECEMBER 24, 1974,

B) DEPARTMENT'S A-10156, DECEMBER 11, 1973

1. NOTWITHSTANDING MFA'S COMMENTS AND CONCLUSIONS  
TRANSMITTED WITH REFERENCE (A), DEPARTMENT REMAINS CON-  
VINCED OF VALIDITY OF ITS LEGAL POSITION AS STATED IN  
REFERENCE (B). DEPARTMENT OF FURTHER VIEW SOVIET  
REPLIES FAIL TO REFUTE OR INVALIDATE DEPARTMENT'S  
CONTENTION THAT PROVISIONS OF SECTION 458 OF THE CODE  
OF CIVIL PROCEDURE OF THE RSFSR ESTABLISH AN EXCEPTION  
TO THE ABSOLUTE LIABILITY IMPOSED BY SECTION 454, WHICH  
CONTENTION IS SUPPORTED BY SOVIET COURT DECISION.  
(BALAKINA V. BESPALOV, 1966, ENCLOSURE 2 REFERENCE (B)).

2. DEPARTMENT'S STATUTORY AUTHORITY TO PAY COMPENSATION  
FOR VALID CLAIMS IS LIMITED TO THE PROVISIONS OF (A) 22  
USC SECTION 2669(B), MERITORIOUS CLAIMS ESPoused BY  
FOREIGN GOVERNMENTS ENTAILING T;E INTERNATIONAL RESPONSI-  
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BILITY OF THE US GOVERNMENT; AND (B) SECTION 2669(F), TORT

CLAIMS ARISING FROM DEPT'S OPERATIONS OVERSEAS IN ACCORDANCE

WITH THE FEDERAL TORT CLAIMS ACT, AS AMENDED, 28 USC  
SECTION 2672 (2 FAM 281.1(A). UNDER LATTER, EVIDENCE  
MUST ESTABLISH (1) FAULT OR LIABILITY OF DEPARTMENT  
EMPLOYEE IN CAUSING INJURY TO CLAIMANT, AND (2) UNDER  
CIRCUMSTANCES WHERE USG, IF A PRIVATE PERSON, WOULD BE  
LIABLE TO THE CLAIMANT IN ACCORDANCE WITH THE LAW OF THE  
PLACE WHERE THE ACT OR OMISSION OCCURRED. (SOVIET  
INVESTIGATION REPORT CONCLUDED NEITHER DRIVER NOR VEHICLE  
AT FAULT IN GOLOSOVSKIY DEATH.) ALTHOUGH HUMANITARIAN  
ASPECTS ARE APPARENT IN CASE, DEPARTMENT HAS NO LEGAL  
AUTHORITY OR FUNDS WITH WHICH TO MAKE AN "EX GRATIA"  
PAYMENT TO MRS. GOLOSOVSKAYA. INGERSOLL

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** n/a  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 11 FEB 1975  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** n/a  
**Disposition Approved on Date:**  
**Disposition Authority:** n/a  
**Disposition Case Number:** n/a  
**Disposition Comment:**  
**Disposition Date:** 01 JAN 1960  
**Disposition Event:**  
**Disposition History:** n/a  
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**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
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**Office:** ORIGIN L  
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**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
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**Previous Handling Restrictions:** n/a  
**Reference:** 75 EMBASSY'S A-481, 75 DECEMBER 24, 75 1974  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** CunninFX  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 01 MAY 2003  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <01 MAY 2003 by BrownAM>; APPROVED <06 JAN 2004 by CunninFX>  
**Review Markings:**

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05 JUL 2006

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** GOLOSOVSKAYA DEATH CLAIM  
**TAGS:** ASAFA, UR  
**To:** MOSCOW  
**Type:** TE  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006